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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,933	10/26/2001	Timothy R. Bratton	REAL-2007115(RN113)	8588
61857 7590 08/06/2008 AXIOS LAW GROUP, PLLC / REALNETWORKS, INC 1525 FOURTH AVENUE SUITE 800 SEATTLE, WA 98101				
EXAMINER SHEER, CRISTINA O				
ART UNIT 3685		PAPER NUMBER		
MAIL DATE 08/06/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/046,933

**Applicant(s)**

BRATTON ET AL.

**Examiner**

CRISTINA OWEN SHERR

**Art Unit**

3685

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 14-36 and 38-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-36 and 38-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to Applicant's amendment filed April 25, 2008. Claims 1, 8, 15, 18, 19, 26, 32, 38, 39, 44, 51, 53, and 60 are currently amended. Claims 1-12, 14-36 and 38-60 are currently pending in this case.

### ***Response to Arguments***

2. Applicant's arguments filed April 25, 2008 have been fully considered but they are not persuasive.
3. Applicant argues, regarding claim 1 (and all the other independent claims) as currently amended, that nothing in the cited prior art, teaches, suggests or discloses that the first file portion lacks at least one non header portion and is thus unusable.
4. Examiner respectfully disagrees and directs attention to Mages, wherein, at col 6 In 39-43, content may be crippled by removing critical information *such as* the video-audio header. (emphasis added). Not that the term "such as" indicates that the header is merely one example of critical information to remove. Thus, it would be obvious to one of ordinary skill in the art that other critical information could and would do the trick.
5. Applicant argues, regarding claim 1 (and all the other independent claims) as currently amended, that nothing in the cited prior art, teaches, suggests or discloses that receiving a plurality of second file portions of the media file.
6. Examiner respectfully disagrees and directs attention to Hazra, wherein the multiple layers of a single data stream (e.g. col 8 In 54-58) are the equivalent of the multiple portions in the instant application, and each may be received and decoded without reference to the others (e.g. col 9 In 1-15).

7. Applicant argues regarding the claim rejection generally, that it would not be obvious to combine the cited references.
8. Examiner respectfully disagrees and notes that Mages, Secord, and Hazra are all directed to controlling the use of media over a network such as the internet. Further, applicant merely combines known elements, without changing their functions to arrive at a predictable result. KSR, 72 Fed. Reg. 57).
9. Applicants argue regarding claim 4, that nothing in the cited prior art discloses teaches or suggests storing a portion of a media file for re-use.
10. Examiner notes that the nothing in claim 4 indicates such storage for re-use. Applicant makes arguments outside the scope of the claim.
11. Applicant argues regarding claim 7, that nothing in the cited prior discloses teaches or suggests examining sequencing information to determine where file portions should be placed.
12. We note that examining sequencing information is old and well known in computer files, And that knowing where parts of a file belong would be inherent to decrypting or descrambling a file.
13. Applicant argues regarding claim 8, as currently amended, that nothing in the cited prior discloses, teaches or suggest obtaining a decryption key from one of the plurality of second files.
14. Examiner respectfully disagrees and directs attention to Mages at (See 306 Figs. 3-3, and 12, Col. 4, lines 1-65, Col. 8. lines 30-50, Col. 10, lines 1-30 and claims 1-8) disclose a method for playing media files from two portions, each of which is unusable

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as a media file and each of which is delivered via a separate channel substantially as claimed, This in combination with Hazra which discloses having a plurality of second file portion portions (e.g. col 4 ln 18-40), as discussed in the office action.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mages et al (6185306) in view of Hazra (US 6,510,553).

17. Regarding claim 1

18. Mages et al (See 306 Figs. 3-3, and 12, Col. 4, lines 1-65, Col. 8. lines 30-50, Col. 10, lines1-30 and claims 1-8) disclose a method for playing media files from two portions, each of which is unusable as a media file and each of which is delivered via a separate channel substantially as claimed.

19. Hazra discloses, which Mages does not, having a plurality of second file portions (e.g. col 4 ln 18-40), wherein each may be received without reference to the content of the others (e.g. col 8 ln 54 – col 9 ln 15).

20. It would be obvious to one of ordinary skill in the art to combine the teachings of Mages and Hazra motivated by the desire for a faster transmission, thus avoiding "choppy" playing of media.

***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mages et al (6185306) in view of Hazra (US 6,510,553) further in view of Secord et al (6,373,831).

23. Mages and Hazra disclose as discussed above.

24. Regarding the wireless limitations of claim 2, Secord et al (See Figs. 2-5) show portable wireless computing devices that are conventional functional equivalents of the claim limitations and it would be obvious to disconnect the receiver once reception is complete since wireless charges are based on per minute rates.

25. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Mages et al because employing portable computing devices are equivalent to the claim limitations in order to practice the disclosure of the prior art.

26. Regarding limitations of claims 3 and 4 -

27. Mages et al (See 306 Figs. 3-3, and 12, Col. 4, lines 1-65, Col. 8. lines 3050, Col. 10, lines 1-30 and claims 1-8) disclose playing media files from two portions, each of

which is unusable as a media file and each of which is delivered via a separate channel that is the equivalent of the claim limitations.

28. Regarding the component limitations of claim 5

29. Conventional computer components include docking stations that are the equivalents of the claim limitations.

30. Regarding transmission limitations of claim 6

31. Mages et al (See 306 Figs. 3-3, and 12, Col. 4, lines 1-65, Col. 8. lines 30-50, Col. 10, lines 1-30 and claims 1-8) disclose playing media files from two portions, each of which is unusable as a media file and each of which is delivered via a separate channel that is the equivalent of the claim limitations.

32. Regarding description limitations of claim 7

33. Mages et al (See 306 Figs. 3-3, and 12, Col. 4, lines 1-65, Col. 8. lines 30-50, Col. 10, lines 1-30 and claims 1-8) disclose playing media files from two portions, each of which is unusable as a media file and each of which is delivered via a separate channel that is the equivalent of the claim limitations.

34. Regarding key limitations of claim 8

35. Mages et al (See 306 Figs. 3-3, and 12, Col. 4, lines 1-65, Col. 8. lines 30-50, Col. 10, lines 1-30 and claims 1-8) disclose playing media files from two portions, each of which is unusable as a media file and each of which is delivered via a separate channel that is the equivalent of the claim limitations because uncrippling is based on employing a key.

36. Claims 9-12, 14-36, and 38-60 are rejected under the same criteria as above.

37. Examiner's Note: Although Examiner has cited particular columns, line numbers and figures in the references as applied to the claims above for the convenience of the applicant(s), the specified citations are merely representative of the teaching of the prior art that are applied to specific limitations within the individual claim and other passages and figures may apply as well. It is respectfully requested that the applicant(s), in preparing the response, fully consider the items of evidence in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

***Conclusion***

38. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

39. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA OWEN SHERR whose telephone number is

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(571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

41. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt, II can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cristina Owen Sherr, AU 3685

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685